

**72-1-101. Title.**

- (1) This title is known as the "Transportation Code."
- (2) This chapter is known as the "Department of Transportation Administration Act."

Renumbered and Amended by Chapter 270, 1998 General Session

**72-1-102. Definitions.**

As used in this title:

- (1) "Commission" means the Transportation Commission created under Section 72-1-301.
- (2) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.
- (3) "Department" means the Department of Transportation created in Section 72-1-201.
- (4) "Executive director" means the executive director of the department appointed under Section 72-1-202.
- (5) "Farm tractor" has the meaning set forth in Section 41-1a-102.
- (6) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.
- (7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.
- (8) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.
- (9) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.
- (10) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.
- (11) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.
- (12) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.
- (13) "Municipality" has the same meaning set forth in Section 10-1-104.
- (14) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.
- (15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section

72-9-501.

(b) "Port-of-entry" includes inspection and checking stations and weigh stations.

(16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

(17) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

(18) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(19) "Semitrailer" has the meaning set forth in Section 41-1a-102.

(20) "SR" means state route and has the same meaning as state highway as defined in this section.

(21) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

(22) "State highway purposes" has the meaning set forth in Section 72-5-102.

(23) "State transportation systems" means all streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures, airports, spaceports, and all other modes and forms of conveyance used by the public.

(24) "Trailer" has the meaning set forth in Section 41-1a-102.

(25) "Truck tractor" has the meaning set forth in Section 41-1a-102.

(26) "UDOT" means the Utah Department of Transportation.

(27) "Vehicle" has the same meaning set forth in Section 41-1a-102.

Amended by Chapter 372, 2001 General Session

**72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.**

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make policy and rules for the administration of the department, state transportation systems, and programs; and

- (i) annually report to:
  - (i) the Transportation Interim Committee, by November 30 of each year, as to the operation and maintenance needs for highways; and
  - (ii) an appropriate legislative committee as designated by the Legislative Management Committee the transfers that need to be made between all transportation-related funds to maintain the state highway construction program as prioritized by the commission.
- (2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.
- (b) Nothing in this section shall be construed as:
  - (i) creating a private right of action; or
  - (ii) expanding or changing the department's common law duty as described in Subsection (2)(a) for liability purposes.

Amended by Chapter 303, 2013 General Session

**72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.**

- (1) (a) The governor, after consultation with the commission and with the consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.
- (b) The executive director shall be a qualified executive with technical and administrative experience and training appropriate for the position.
- (c) The executive director shall remain in office until a successor is appointed.
- (d) The executive director may be removed by the governor.
- (2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:
  - (a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;
  - (b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;
  - (c) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;
  - (d) receive a salary, to be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business; and
  - (e) purchase all necessary equipment and supplies for the department.

Amended by Chapter 78, 2013 General Session

**72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.**

- (1) The executive director shall appoint a deputy director, who shall be a registered professional engineer in the state and shall serve at the discretion of the

executive director.

(2) The deputy director is the chief engineer of the department. The deputy director shall assist the executive director and is responsible for:

- (a) program and project development; and
- (b) operation and maintenance of the state transportation systems.

(3) The executive director may also appoint assistants to administer the divisions of the department. These assistants shall serve at the discretion of the executive director.

(4) In addition, the executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the Department of Human Resource Management.

Amended by Chapter 139, 2006 General Session

**72-1-204. Divisions enumerated -- Duties.**

The divisions of the department are:

- (1) the Administrative Services Division responsible for:
  - (a) all personnel management including recruiting, training, testing, developing, and assisting the transition of personnel into the department;
  - (b) maintaining records;
  - (c) data processing;
  - (d) procuring administrative supplies and equipment; and
  - (e) risk management;
- (2) the Comptroller Division responsible for:
  - (a) all financial aspects of the department, including budgeting, accounting, and contracting; and
  - (b) providing all material data and documentation necessary for effective fiscal planning and programming;
- (3) the Internal Audit Division responsible for:
  - (a) conducting and verifying all internal audits and reviews within the department;
  - (b) performing financial and compliance audits to determine the allowability and reasonableness of proposals, accounting records, and final costs of consultants, contractors, utility companies, and other entities used by the department; and
  - (c) implementing audit procedures that meet or exceed generally accepted auditing standards relating to revenues, expenditures, and funding;
- (4) the Community Relations Division responsible for:
  - (a) coordinating, organizing, and managing the department's public hearing process;
  - (b) responding to citizens' complaints and requests;
  - (c) developing and implementing the department's public information programs;
  - (d) assisting the divisions and regions in the department's citizen involvement programs; and
  - (e) preparing and distributing internal department communications;
- (5) the Program Development Division responsible for:
  - (a) developing transportation plans for state transportation systems;

- (b) collecting, processing, and storing transportation data to support department's engineering functions;
- (c) designating state transportation systems qualifications;
- (d) developing a statewide transportation improvement program for approval by the commission;
- (e) providing cartographic services to the department; and
- (f) assisting local governments in participating in federal-aid transportation programs;
- (6) the Project Development Division responsible for:
  - (a) developing statewide standards for project design and construction;
  - (b) providing support for project development in the areas of design environment, right-of-way, materials testing, structures, value engineering, and construction;
  - (c) designing specialty projects; and
  - (d) performing research into materials and methods for construction of state transportation systems; and
- (7) the Operations Division responsible for:
  - (a) maintaining the state transportation systems;
  - (b) state transportation systems safety;
  - (c) operating state ports-of-entry;
  - (d) operating state motor carrier safety programs in accordance with this title and federal law;
  - (e) aeronautical operations; and
  - (f) providing equipment for department engineering and maintenance functions.

Renumbered and Amended by Chapter 270, 1998 General Session

**72-1-205. Region offices -- Region directors -- Qualifications -- Responsibilities.**

- (1) The department shall maintain region offices throughout the state as the executive director finds reasonable and necessary for the efficient carrying out of the duties of the department.
- (2) The executive director shall appoint a region director for each region. Each region director shall be a qualified executive with technical and administrative experience and training.
- (3) The region director is responsible for:
  - (a) executing department policy within the region;
  - (b) supervising project development and operations of the state transportation systems within the region; and
  - (c) promoting the department's public involvement and information programs.
- (4) The executive director may also establish district offices within a region to implement maintenance, encroachment, safety, community involvement, and loss management functions of the region.

Renumbered and Amended by Chapter 270, 1998 General Session

**72-1-206. Performance auditors -- Appointment -- Duties -- Reports.**

(1) (a) The executive director, with the approval of a majority vote of the commission for each appointment, shall appoint not less than two performance auditors. A performance auditor may only be removed by the executive director with the approval of a majority vote of the commission.

(b) Each auditor shall have at least three years' experience in performance auditing prior to appointment.

(2) (a) The executive director shall ensure that the auditors receive:

(i) any staff support from the department that is necessary to fulfill their duties; and

(ii) access to all the department's records and information.

(b) The department may hire outside consultants to assist in the audits under Subsection (3).

(3) The performance auditors shall conduct and supervise, as prioritized by the commission:

(a) performance audits to determine the efficiency and effectiveness of the department;

(b) financial audits to ensure the efficient and effective expenditure of department money;

(c) audits to ensure department compliance with state statutes, commission priorities, and legislative appropriation intent statements;

(d) audits to determine the impact of federal mandates, including air quality, wetlands, and other environmental standards on the cost and schedule of department projects;

(e) external audits on persons entering into contracts with the department, as necessary;

(f) studies to determine the time required to accomplish department and external contract work and their relative efficiencies;

(g) evaluations of the department's quality assurance and quality control programs; and

(h) any other executive director or commission requests.

(4) The performance auditors shall conduct audits in accordance with applicable professional auditing standards.

(5) The performance auditors shall provide copies of all reports of audit findings to the commission, the executive director, and the Legislative Auditor General.

Renumbered and Amended by Chapter 270, 1998 General Session

**72-1-207. Department may sue and be sued -- Legal adviser of department -- Partial waiver of 11th Amendment immunity.**

(1) The department may sue, and it may be sued only on written contracts made by it or under its authority.

(2) The department may sue in the name of the state.

(3) In all matters requiring legal advice in the performance of its duties and in the prosecution or defense of any action growing out of the performance of its duties, the attorney general is the legal adviser of the commission, and the department, and shall

perform any and all legal services required by the commission and the department without other compensation than his salary.

(4) Upon request of the department, the attorney general shall aid in any investigation, hearing, or trial under the provisions of Chapter 9, Motor Carrier Safety Act, and institute and prosecute actions or proceedings for the enforcement of the provisions of the Constitution and statutes of this state or any rule or order of the department affecting motor carriers of persons and property.

(5) (a) The state waives its immunity under the 11th Amendment of the United States Constitution and consents to suit in a federal court for lawsuits arising out of the department's compliance, discharge, or enforcement of responsibilities assumed pursuant to 23 U.S.C. Sec. 326.

(b) The waiver of immunity under this Subsection (5) is valid only if:

(i) the executive director or the executive director's designee executes a memorandum of understanding with the United States Department of Transportation accepting the jurisdiction of the federal courts as required by 23 U.S.C. Sec. 326(c);

(ii) before execution of the memorandum of understanding under Subsection (5)(b)(i), the attorney general has issued an opinion letter to the executive director and the administrator of the Federal Highway Administration that the memorandum of understanding and the waiver of immunity are valid and binding upon the state;

(iii) the act or omission that is the subject of the lawsuit arises out of or relates to compliance, discharge, or enforcement of responsibilities assumed by the department pursuant to 23 U.S.C. Sec. 326; and

(iv) the memorandum of understanding is in effect when the act or omission that is the subject of the federal lawsuit occurred.

Amended by Chapter 333, 2007 General Session

**72-1-208. Cooperation with counties, cities, towns, the federal government, and all state departments -- Inspection of work done by a public transit district.**

(1) The department shall cooperate with the counties, cities, towns, and community development and renewal agencies in the construction, maintenance, and use of the highways and in all related matters, and may provide services to the counties, cities, towns, and community development and renewal agencies on terms mutually agreed upon.

(2) The department, with the approval of the governor, shall cooperate with the federal government in all federal-aid projects and with all state departments in all matters in connection with the use of the highways.

(3) The department:

(a) shall inspect all work done by a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, relating to safety appliances and procedures; and

(b) may make further additions or changes necessary for the purpose of safety to employees and the general public.

Amended by Chapter 279, 2010 General Session

**72-1-208.5. Definition -- Cooperation with metropolitan planning organizations -- Cooperation in plans and programs required.**

(1) As used in this section, "metropolitan planning organization" means an organization established under 23 U.S.C. Sec. 134.

(2) The department shall cooperate with a metropolitan planning organization in the metropolitan planning organization's responsibility to carry out a continuing, cooperative, and comprehensive process for transportation planning and project programming.

(3) If a metropolitan planning organization has a contiguous boundary with another metropolitan planning organization, the department shall cooperate with those organizations if the metropolitan planning organizations have:

(a) coordinated project priorities, transportation plans, and transportation improvement programs; and

(b) submitted joint priorities, plans, and programs to the department as comprehensive, integrated transportation plans.

(4) Subject to the provisions of 23 U.S.C. Sec. 134, if the governor and the affected local units of government jointly determine that metropolitan planning organizations have failed to meet the guidelines under Subsection (3), the governor and local units of government may redesignate or realign the metropolitan planning organizations.

(5) (a) A metropolitan planning organization is a governmental agency that is eligible to receive employment information from the Unemployment Insurance Division in accordance with Subsection 35A-4-312(5)(e) for the purpose of preparing transportation plans as required by 23 U.S.C. Sec. 134.

(b) Information obtained under Subsection (5)(a) is limited to the employer's:

(i) name;

(ii) worksite address;

(iii) industrial classification; and

(iv) number of employees.

Amended by Chapter 58, 2008 General Session

**72-1-209. Department to cooperate in programs relating to scenic centers.**

The department shall cooperate in planning and promoting road-building programs into the scenic centers of the state and in providing camping grounds and facilities in scenic centers for tourists with:

(1) the Governor's Office of Economic Development;

(2) other states;

(3) all national, state, and local planning and zoning agencies and boards;

(4) municipal and county officials; and

(5) other agencies.

Amended by Chapter 148, 2005 General Session

**72-1-210. Department to be assisted by faculties and personnel of universities.**



The engineering machinery and apparatus and the force of mechanics and instructors in the University of Utah and Utah State University are at the disposal of the department, and any faculty member of the institutions shall furnish any information or assistance desired upon request of the department.

Renumbered and Amended by Chapter 270, 1998 General Session

**72-1-211. Department to develop strategic initiatives -- Report -- Rulemaking.**

- (1) The executive director shall develop strategic initiatives for the department.
- (2) The strategic initiatives developed under Subsection (1) shall include consideration of the following factors:
  - (a) corridor preservation;
  - (b) development of new transportation capacity projects;
  - (c) long-term maintenance and operations of the transportation system;
  - (d) safety;
  - (e) incident management; and
  - (f) homeland security.
- (3) (a) The executive director or the executive director's designee shall report the strategic initiatives of the department developed under Subsection (1) to the Transportation Commission.
- (b) The report required under Subsection (3)(a) shall include the measure that will be used to determine whether the strategic initiatives have been achieved.
- (4) After compliance with Subsection (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing the strategic initiatives developed under this part.

Amended by Chapter 382, 2008 General Session

**72-1-301. Transportation Commission created -- Members, appointment, terms -- Qualifications -- Pay and expenses -- Chair -- Quorum.**

- (1) (a) There is created the Transportation Commission which shall consist of seven members.
- (b) The members of the commission shall be residents of Utah.
- (c) The members of the commission shall be selected on a nonpartisan basis.
- (d) (i) The commissioners shall be appointed by the governor, with the consent of the Senate, for a term of six years, beginning on April 1 of odd-numbered years, except as provided under Subsection (1)(d)(ii).
- (ii) The first two additional commissioners serving on the seven member commission shall be appointed for terms of two years nine months and four years nine months, respectively, initially commencing on July 1, 1996, and subsequently commencing as specified under Subsection (1)(d)(i).
- (e) The commissioners serve on a part-time basis.
- (f) Each commissioner shall remain in office until a successor is appointed and qualified.
- (2) (a) Except as provided in Subsection (2)(b), the selection of the

commissioners shall be as follows:

- (i) one commissioner from Box Elder, Cache, or Rich county;
- (ii) one commissioner from Salt Lake or Tooele county;
- (iii) one commissioner from Carbon, Emery, Grand, or San Juan county;
- (iv) one commissioner from Beaver, Garfield, Iron, Kane, Millard, Piute, Sanpete, Sevier, Washington, or Wayne county;
- (v) one commissioner from Weber, Davis, or Morgan county;
- (vi) one commissioner from Juab, Utah, Wasatch, Duchesne, Summit, Uintah, or Daggett county; and
- (vii) one commissioner selected from the state at large.

(b) Beginning with the appointment of commissioners on or after July 1, 2009 and subject to the restriction in Subsection (2)(d), the selection of commissioners shall be as follows:

- (i) four commissioners with one commissioner selected from each of the four regions established by the department; and
  - (ii) subject to the restriction in Subsection (2)(c), three commissioners selected from the state at large.
- (c) (i) At least one of the three commissioners appointed under Subsection (2)(b)(ii) shall be selected from a rural county.
- (ii) For purposes of this Subsection (2)(c), a rural county includes a county of the third, fourth, fifth, or sixth class.

(d) No more than two commissioners appointed under Subsection (2)(b) may be selected from any one of the four regions established by the department.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) (a) One member of the commission shall be designated by the governor as chair.

(b) The commission shall select one member as vice chair to act in the chair's absence.

(5) Any four commissioners constitute a quorum.

(6) Each member of the commission shall qualify by taking the constitutional oath of office.

Amended by Chapter 336, 2011 General Session

#### **72-1-302. Commission offices and meetings.**

(1) The commission shall maintain offices and hold regular meetings at those offices on dates fixed and formally announced by it, and may hold other meetings at the times and places as it may, by order, provide.

(2) (a) Meetings may be held upon call of the governor, the chairman, or two commissioners upon notice of the time, place, and purpose of meeting to each commissioner at least seven days prior to the date of the meeting.

(b) Any meeting may be held upon shorter notice with the unanimous approval of the commission.

Amended by Chapter 10, 2002 General Session

**72-1-303. Duties of commission.**

- (1) The commission has the following duties:
- (a) determining priorities and funding levels of projects in the state transportation systems for each fiscal year based on project lists compiled by the department;
  - (b) determining additions and deletions to state highways under Chapter 4, Designation of State Highways Act;
  - (c) holding public hearings and otherwise providing for public input in transportation matters;
  - (d) making policies and rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the commission's duties described under this section;
  - (e) in accordance with Section 63G-4-301, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4, Administrative Procedures Act;
  - (f) advising the department in state transportation systems policy;
  - (g) approving settlement agreements of condemnation cases subject to Section 63G-10-401;
  - (h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a nonvoting, ex officio member or a voting member on the board of trustees of a public transit district;
  - (i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term and long-range public transit plans; and
  - (j) reviewing administrative rules made, amended, or repealed by the department.
- (2) (a) For projects prioritized with funding provided under Sections 72-2-124 and 72-2-125, the commission shall annually report to a committee designated by the Legislative Management Committee:
- (i) a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects; and
  - (ii) the unfunded highway construction and maintenance needs within the state.
- (b) The committee designated by the Legislative Management Committee under Subsection (2)(a) shall:
- (i) review the list reported by the Transportation Commission; and
  - (ii) make a recommendation to the Legislature on:
    - (A) the amount of additional funding to allocate to transportation; and
    - (B) the source of revenue for the additional funding allocation under Subsection (2)(b)(ii)(A).
- (3) The commission shall review and may approve plans for the construction of a highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval of Highway Facilities on Sovereign Lands Act.

Amended by Chapter 256, 2011 General Session

**72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.**

(1) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways.

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate.

(3) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(5) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (4).

Amended by Chapter 382, 2008 General Session

**72-1-305. Project selection using the written prioritization process -- Public comment -- Report.**

(1) Except as provided in Subsection (4), in determining priorities and funding levels of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new transportation capacity projects, the commission shall use the weighted criteria system adopted in the written prioritization process under Section 72-1-304.

(2) Prior to finalizing priorities and funding levels of projects in the state transportation system, the commission shall conduct public hearings at locations around the state and accept public comments on:

(a) the written prioritization process;

(b) the merits of new transportation capacity projects that will be prioritized under this section; and

(c) the merits of new transportation capacity projects as recommended by a consensus of local elected officials participating in a metropolitan planning organization as defined in Section 72-1-208.5.

(3) The commission shall make the weighted criteria system ranking for each project publicly available prior to the public hearings held under Subsection (2).

(4) (a) If the commission prioritizes a project over another project with a higher rank under the weighted criteria system, the commission shall identify the change and accept public comment at a hearing held under this section on the merits of prioritizing the project above higher ranked projects.

(b) The commission shall make the reasons for the prioritization under Subsection (4)(a) publicly available.

(5) The executive director or the executive director's designee shall report annually to the governor and a committee designated by the Legislative Management Committee no later than the last day of October:

(a) the projects prioritized under this section during the year prior to the report; and

(b) the status and progress of all projects prioritized under this section.

(6) (a) The department may not delay a new transportation capacity project that was funded by the Legislature in an appropriations act to a different fiscal year than programmed by the commission due to an unavoidable shortfall in revenues unless the project delays are prioritized and approved by the Transportation Commission.

(b) The Transportation Commission shall prioritize and approve any new transportation capacity project delays for projects that were funded by the Legislature in an appropriations act due to an unavoidable shortfall in revenues.

Amended by Chapter 364, 2009 General Session